

COUNTY OF BARNSTABLE
PURCHASING
DEPARTMENT OF FINANCE

Elaine Davis
Chief Procurement Officer

SUPERIOR COURT HOUSE
P.O. BOX 427
BARNSTABLE, MASSACHUSETTS 02630

Phone: (508) 375-6637
Fax: (508) 362-4136
Email:
edav@barnstablecounty.org

Invitation for Bids

Barnstable County is seeking bids for the supply and delivery of #2 fuel oil to Barnstable County and other political subdivisions for the period of July 1, 2018 through June 30, 2019.

Bids will be received at the Superior Court House, Office of the County Commissioners, Purchasing Department, 3195 Main Street, P.O. Box 427, Barnstable, MA 02630, on or before **May 2, 2018 no later than 10:30AM. No exceptions allowed.**

Bid specifications may be obtained from the Barnstable County Purchasing Department, Superior Court House, P.O. Box 427, Barnstable, Massachusetts 02630.

Sealed envelopes containing bids shall be clearly marked "**Bid – #2 Fuel Oil – FY 2019**"

NOTE: One original and two (2) copies of each bid shall be submitted. NO faxed proposals will be accepted.

The County of Barnstable reserves the right to accept or reject any or all bids, to waive any informality contained therein, and to award the contract as decided to be in the best interest of the County.

The County of Barnstable fully complies with federal, state, and local laws and directives governing equal opportunity, affirmative action and non-discrimination in all county activities and actively solicits bids/proposals from MBE/WBE businesses in accordance with County policy.

Dated at Barnstable, Massachusetts, this Sixteenth Day of April, Two Thousand and Eighteen.

Elaine Davis
Chief Procurement Officer

Barnstable County invites bids from qualified contractors to provide #2 fuel oil to the entities listed on ATTACHMENT A of this IFB. It is essential that Contractor(s) provide these entities with reliable delivery services throughout the term of the contract(s).

1. PROCUREMENT CALENDAR:

The SCHEDULE for the bid process is as follows:

Advertisement in Goods and Services Bulletin: April 16, 2018

Advertisement on CommBuys: April 16, 2018

Local Advertisement: April 16, 2018

Deadline for written questions: April 25, 2018

Deadline for bids: May 2, 2018

2. CONTACT INFORMATION

Contact:

Elaine Davis, Chief Procurement Officer
Barnstable County Purchasing Department
3195 Main Street
PO Box 427
Barnstable, MA 02630
PHONE: (508) 375-6637
FAX: (508) 362-4136
E-Mail: edav@barnstablecounty.org
Website: <http://purchasing.barnstablecounty.org>

3. GENERAL INFORMATION:

Questions regarding this IFB may be submitted in writing by mail, email or fax to Elaine Davis, Chief Procurement Officer at the address listed above no later than April 25, 2018 at 4:00PM. Responses to questions will be sent to all vendors who are recorded as having received the bid via e-mail or fax.

Bids shall be typewritten or written in ink and signed in blue ink on the enclosed forms. No electronic bids may be submitted. Officials of Corporations shall designate their official title. Partners or Sole Owners shall so state, giving names of all interested parties.

If this bid is distributed electronically, bidders are solely responsible for obtaining and completing required attachments that are identified in this bid and for checking for any addenda or modifications that are subsequently made to this bid or attachments. Barnstable County accepts no liability and will provide no accommodation to bidders who fail to check for amended bids and submit inadequate or incorrect responses.

Bidders may not alter (manually or electronically) the bid language or any bid documents. Unauthorized modifications to the body of the bid, specifications, terms or conditions, or which change the intent of this bid are prohibited and may disqualify a response.

All information submitted in response to this IFB is subject to Massachusetts Public Records Law, M.G.L., Chapter 66, Section 10, and to Chapter 4, Section 7, Subsection 26. Any statements in submitted responses that are inconsistent with these statutes will be disregarded.

Estimates of gallons required by each municipal entity are included for the convenience of bidders as the best information available to estimate the number of gallons in this procurement. Barnstable County makes no guarantee that any entity will purchase the number of estimated gallons listed on ATTACHMENT A.

Bidders shall not base bids on verbal information from any employee of the County of Barnstable or other political subdivision.

The County of Barnstable and/or each other political subdivision reserves the right to reject its section of the bid within an appropriate amount of time and unless otherwise specified by the bidder, to accept any item in the bid, or make a total award to one bidder. Rejection by any governmental entity or its section shall not be grounds for withdrawal by any bidder.

The County of Barnstable and/or each other political subdivision reserves the right to reject any and all bids if, in its sole opinion, it is in the best interest of Barnstable County and the political subdivisions listed on ATTACHMENT A to do so, waive any minor informalities in the bid requirements, or request additional clarifying information be provided after the deadline for submitting bids.

All expenses incurred by bidders, whether successful or unsuccessful, in preparing and delivering their bids are the sole responsibility of the bidders.

As soon as the award(s) is made, the Bidder shall be requested to execute a proper contract with each other political subdivision similar to the contract labeled Attachment D.

The contract term is for twelve months beginning on July 1, 2018 and concluding on June 30, 2019.

The bid must be submitted in a sealed envelope marked "Bid - #2 Fuel Oil – FY 2018" in the lower left-hand corner. All items shall be guaranteed from July 1, 2018 through June 30, 2019. Barnstable County is not responsible for any bids that are mislabeled.

Vendors must bid a fixed price that will remain in effect for the duration of the contract. An optional 20-day payment discount will be used only as a tiebreaker in determining award.

4. BIDDING FORMAT

Fixed Pricing: Bidders will offer a fixed price per gallon to be in effect for the duration of the contract.

Taxes: State agencies and political subdivisions are specifically exempt from state sales tax and exempt from all federal taxes. The prices quoted shall not include taxes.

OEP Pricing: Items bid as OEP require vendors to compete for fuel on the basis of delivery margin. The O.E.P. bid, expressed in cents per gallon (not to exceed four (4) decimal places) will be a constant factor, which the winning vendor will receive for all deliveries of the responsive products. The Base Price for each fuel will be from Reseller Tank Car Boston Low Price as printed in the Journal of Commerce for the appropriate fuel for the delivery date of product.

The following exceptions to the Journal of Commerce postings will apply. Weekend pricing will be based on Friday's Posting. The Friday posting will also stay in effect on Monday Holidays. Prices in effect for midweek or Friday holidays will be the same as for the preceding day.

5. DETERMINATION OF WINNING AWARD:

The bid will be awarded to the responsible and responsive vendor offering the most favorable fixed per-gallon or OEP price as indicated for each location. In case of a tie, immediately following the bid opening, in the presence of impartial witnesses, the names of the tied bidders will be placed in a receptacle, and the name of the winning bidder will be drawn by the a person who is not a County employee and has no interest in the awarding of this bid.

Notice of Award: The County has requested that all municipalities wishing to bid a fixed price have a representative who is authorized to accept or reject the bid to be available on the day of the bid opening to accept or reject the bid. If no representative can be reached, the fixed price bid for their location will be rejected. Each municipality will enter into their own contract with the appropriate vendor.

The County of Barnstable shall notify bidders as to whether their submitted fixed price bid has been accepted or rejected by the County of Barnstable and/or each political subdivision for which bids have been received on or before 2:00PM on the date when the bids are opened.

By submission of bids, the bidders agree to hold the County of Barnstable harmless for any causes of action in law or in equity that might accrue from the bid process. The County of Barnstable assumes no liability as a result of this bid process, the submission of bids or the acceptance or rejection of bids.

6. OIL SPECIFICATIONS:

#2 Fuel Oil:

- The oil shall be distillate oil.
- The gravity shall not be lower than 20 degrees API at 60 degrees F.
- The flash point shall not be lower than 150 degrees F. (Penskey-Martens closed cup tester)
- The heating volume shall not be less than 137,000 BTU's per gallon at 60 degrees F.
- The BS and W shall not exceed 0.05 percent.

#4 Fuel Oil:

- The oil shall be a refinery or digital blend.
- The gravity shall not be lower than 20 degrees API at 60 degrees F.
- The maximum viscosity shall not be greater than 125 seconds at 100 degrees F (Saybolt Universal Scale)
- The flash point shall not be lower than a minimum of 130 degrees F (Penskey-Martens closed cup tester).
- The heating volume shall not be less than 140,000 BTU's per gallon at 60 degrees F.
- The BS&W shall not exceed 1.0 percent.

If any of the specifications listed conflict, the Chief Procurement Officer of Barnstable County will determine the specifications that meet or exceed the needs of Barnstable County and the Political Subdivisions listed on ATTACHMENT A. The decision of the Chief Procurement Officer will be final.

7. DELIVERY REQUIREMENTS:

The Contractor is obligated to supply the full oil requirements of the contract user including the purchase, transport, and delivery of oil to each contract user. The Contractor is responsible for all costs associated with the transport of oil to the contact user's tank.

Deliveries must be in compliance with all applicable Local, State, and Federal laws and regulations.

Contractors are responsible for paying for any damage they cause at a site.

While performing work under this contract, the Contractor shall be responsible for completing cleanup for any spills or accidental release to the environment (pursuant to M.G.L. Chapter 21 E and other relevant regulations) at no cost to any of the entities listed on ATTACHMENT A.

The Contractor shall notify all Local, State, and Federal authorities as required by law in the event of such a release or threat of release. The Contractor will make every effort to contact the customer's emergency contact first, if time frames and conditions allow.

The Contractor will immediately notify the user facility contact person, in writing, in the event of a spill, release, or threat of a release to the environment and prior to initiating clean up response actions. If prior notification of the facility contact person is not possible, then the Contractor shall take appropriate response actions, as directed by the Contractor's Licensed Site Professional, and notify the contact person, in writing, as soon as possible thereafter

The Contractor must provide a written summary of all response action taken in any instance within the timelines established for reporting of spills and/or contamination, as set forth in M.G.L. Chapter 21 E.

The successful Bidder will protect Barnstable County and the other political subdivisions listed on ATTACHMENT A from any and all infringements of patents, royalties, or damages arising from this contract's transactions.

If at any time the contractor is unable to furnish materials or services as ordered individually by the County or other political subdivisions, the Contractor shall be obligated to obtain delivery from another supplier and the contractor will in turn invoice the County or other political subdivision so affected, at the price specified in such Contract with the County or other political subdivision affected, or, the County or other political subdivision may order such materials or services from such places as are available, and the contractor shall pay to the affected County or other political subdivision all expenses incurred above such contract price.

8. PAYMENT:

Invoices shall be in cents per gallon. Twenty – (20) day payment schedules are offered for such quantities of materials or services as have been accepted by the County of Barnstable and by each other political subdivision individually. Discounts offered for payment within twenty (20) days shall be so specified on each section for each political subdivision.

State agencies and political subdivisions are specifically exempt from state sales tax and exempt from all federal taxes. The prices quoted shall be exclusive of said taxes.

9. ANALYSIS AND DISPOSITION OF OIL NOT MEETING THE SPECIFICATIONS IN SECTION 4 OF THIS IFB:

The paramount goal of this contract is supply and delivery of high quality oil that meets the specifications listed in Section 4 in this IFB. The Contractor is required to assure Barnstable County and all political subdivisions listed on ATTACHMENT A that there are quality control mechanisms in place to assure the quality of delivered oil. If a customer has reason to believe that the Contractor has delivered oil of an inferior quality, questionable grade of oil, or oil with contaminants within (including water), the customer will have independent testing performed at the customer's request at a testing lab selected by the customer. The Contractor will agree to abide by the testing results obtained from the independent testing lab and will pay for the cost of testing if delivered oil does not meet the standards.

All oil may be regularly and continually analyzed or only part or parts thereof may be analyzed by the County or any other political subdivision. Each contract will provide that upon such an analysis being made, the Contractor shall receive reasonable notice and shall be entitled to have a representative present when samples for analysis are taken and shall be entitled to take samples like the sample to be analyzed.

The contractor will be notified of any oil rejected for not having complied with the analysis as required by this IFB and is to immediately remove same and any other oil previously in the tank, and immediately replace all with a like quantity of acceptable oil that complies with the specifications. All applicable Local, State, and Federal regulations must be complied with to meet the requirements of this Section. This process must begin as soon as possible upon the Contractor's receipt of notice that the oil does not meet the specifications listed in this IFB, and in no event later than 24 hours after said receipt. On failure to do so, the County or other political subdivision affected may individually remove it at the expense of said Contractor, and if the Contractor fails to provide proper oil within a reasonable length of time the county or other political subdivision affected may individually cancel the Contract or may, at the expense of the Contractor, purchase a proper oil which will comply with the specifications listed in this IFB, charging said Contractor for any excess in cost thereof. Oil rejected under this paragraph, if partially used, shall be paid for at the contract price.

10. QUALIFICATIONS:

Bidders must have been regularly engaged for a least one year prior to the date of bid opening, in the business of supplying the product bid upon, in the grade bid upon and in the manner of

organization, facilities and assurance of supply to insure prompt and satisfactory service as called for with all delivery in Massachusetts calibrated tank trucks.

Bidders must submit a list of at least three customer references, naming the organization, contract name, address and telephone number.

Bidders must have firm sources of fuel.

Political Subdivisions will not pay more than the awarded bid price. Invoices must be calculated using the awarded bid price.

Upon notice of the award of the contract, the successful bidder shall submit names and telephone numbers, including twenty-four hour beeper or answering machine numbers, for those individuals involved in the direct customer service aspects of this contract(s). These contacts will be shared with all entities listed on ATTACHMENT A for the purpose of communicating routine or emergency information with the Contractor(s).

Pre-Qualification Statement: A pre-qualification statement may be required by the County of Barnstable or other political subdivision individually. This statement includes, but is not limited to, experience with government entities, legal or administrative proceedings currently pending, financial condition certified by a Certified Public Accountant, bank and credit references, a listing of equipment to be used during the term of the contract, and municipal references for which the bidder has provided similar services.

11. DELIVERIES:

Deliveries made to the County of Barnstable or other political subdivision shall be in the presence of an authorized agent of that governmental entity.

Tank Wagon deliveries of #2 fuel oil are to be by metered trucks and delivery slips shall be stamped by the metering device indicating the amount of fuel oil delivered at each delivery. Deliveries shall be made on days and during hours that are acceptable to contract users.

All deliveries of TANK WAGON #2 fuel oil shall be automatic, based on degree-day units unless otherwise stipulated by awarding authorities or Section. **Vendors are to make arrangements with each location for delivery times, etc.** Liability for damage resulting from an oil tank running out of fuel because of a Contractor's failure to make automatic deliveries shall be the responsibility of the Contractor.

Motor Transport deliveries must be sealed, receipts must accompany deliveries, and said seals shall be broken in the presence of an authorized agent of the government entity. Signed delivery slips are to be forwarded to the purchaser with invoices. Deliveries are to be made with 72 hours from date of notification. Spillage will be the responsibility of the contractor.

Motor Transport deliveries may be split between two sites at no extra charge.

12. BONDING REQUIREMENTS:

Bid Bond/Certified Check: Each bid must be accompanied by a certified check or Bid Bond made payable to the County of Barnstable from a surety licensed in MA. Certified checks will be returned within ten (10) days of the award of the contract. However, if a bidder fails to execute such contract within ten (10) days of the date of sending, the certified check will be declared forfeited as liquidated damages. Bid Bonds or certified checks will be required as follows:

- \$2,000 if bidding up to 250,000 total estimated gallons
- \$3,000 if bidding up to 500,000 total estimated gallons
- \$4,000 if bidding up to 750,000 total estimated gallons
- \$5,000 if bidding up to 1,000,000 total estimated gallons
- \$10,000 if bidding more than 1,000,000 total estimated gallons

Assurance: As soon as the award is made, the successful Bidder(s) will be required to furnish a Performance Bond from a surety licensed to do business in MA, or Irrevocable Letter of Credit in the favor of the County of Barnstable and/or each political subdivision, individually, in an amount no less than \$.25 per gallon anticipated annual delivery. Said assurance shall cover the full term of any contract. Bidders must submit the name and address of the bonding company that will provide the performance bonds or the company that will supply the irrevocable letter of credit with their bid.

Conditions of Award: The County of Barnstable and each other political subdivision of this bid specification is listed by section. Each such section is accompanied by a listing of delivery sites, size of tanks at each site, and approximate gallonage used by that purchaser. A bidder may submit a bid on any or all sections as specified on the fuel oil bid sheet.

Cancellation: The County of Barnstable and/or any other political subdivision can terminate its contract/ price agreement with a contractor(s) who fails to perform under the terms of the contract/price agreement issued by a political subdivision. Notice of termination shall be in writing and notification shall be sent by registered or certified mail. Termination of contract/price agreement shall become effective upon contractor(s) receipt of notification.

13. INSURANCE COVERAGE

General Insurance Requirements

Prior to the commencement this Contract, the Vendor shall procure and maintain during the life of the Contract and beyond as required, the types and limits of insurance as outlined below:

- a. All insurance required of the Vendor will be maintained with companies assigned a letter rating in the "A- VIII" category from A.M. Best or which are otherwise acceptable to the County of Barnstable, and which are lawfully authorized to do business in the Commonwealth of Massachusetts.
- b. Each policy (except workers' compensation and personal property) shall include County of Barnstable, and all other political subdivisions/entities as their interests may appear in the awarded scope of work (herein after referred to as "all other political subdivisions"), its officers and employees as Additional Insureds or loss payees as their interests may appear. Each policy shall indicate that the coverage is primary and non-contributory.
- c. Each policy shall contain a waiver of subrogation in favor of County of Barnstable, and "all other political subdivisions," its officers and employees.
- d. No policy must be allowed to expire, be cancelled or materially modified without thirty (30) days' prior written notice to the Chief Procurement Officer, County of Barnstable.

Liability Insurance

The Vendor shall be fully responsible for all claims for damages for bodily injury, including wrongful death, and all claims for property damage, which may result from the performance of this Contract by the Vendor, or any of their respective agents or employees. The Vendor's liability shall not be limited to the extent of the insurance required herein. The Vendor shall take out and maintain in force during the life of this Contract the following types of insurance to protect the County of Barnstable, and "all other political subdivisions," its agents, and employees from claims which may arise from operations by himself or by anyone directly or indirectly employed by Vendor or working on their behalf.

- a. **Commercial General Liability Insurance:** to cover all claims for damages for bodily injury including accidental death, as well as claims for property damage which may arise out of operations performed in connection with the Contract. The policy shall provide a combined single limit for bodily injury and property damage of one million dollars (1,000,000) per occurrence, and two million dollars (\$2,000,000) aggregate. Personal and Advertising Injury coverage shall be provided at a limit of (\$1,000,000).

The County of Barnstable and "all other political subdivisions" shall be named as an additional insured on all public liability and property damage insurance policies. The policy shall include a

waiver of subrogation in favor of the County of Barnstable, and “all other political subdivisions.” No insurance policy obtained pursuant to this section shall contain a deductible or self insured retention.

- b. Automobile Liability:** to cover the liability of the Vendor arising from operations on and off the site of all motor vehicles whether they are owned, non-owned or hired. The policy shall be on an occurrence form with a combined single limit for bodily injury and property damage liability of at least one million dollars (\$1,000,000).

The policy should include a Broadened Pollution Endorsement (CA 99 48) if Vendor is bringing fuel cans or possible pollutants, mobile equipment or other gas powered tools on-site. If hauling hazardous materials, contaminants or pollutants, the policy shall include coverage form MCS-90 in accordance with Sections 29 and 30 of the Motor Carrier Act of 1980.

- c. Umbrella Liability:** to protect the Vendor against all claims excess of the commercial general liability and automobile liability mentioned above and employer’s liability coverage mentioned in the paragraph below. The coverage provided by the umbrella policy shall be at least as broad as the underlying policies. The limit of protection provided by the policy shall be a minimum of one million dollars (\$1,000,000) or such other amount if required by the County of Barnstable and indicated via addendum to this Contract.

Workers’ Compensation and Employer’s Liability Insurance

Before commencing performance of this contract, the Vendor shall provide insurance for the payment of compensation and the furnishing of other benefits under the Massachusetts General Laws Chapter 152 (the so-called Workers Compensation Law) to all persons to be employed under this contract, the workers’ compensation laws of any other state if there are any persons employed outside of Massachusetts, and any requirement for compensation required under any Federal Act for any maritime employee, longshoreman or harbor workers, and shall continue such insurance in full force and effect during the term of this contract. The contract shall, without limiting the generality of the foregoing, conform to the provisions of the General Laws Chapter 149 S34(a), which section is incorporated herein by reference and made a part hereof.

The Vendor shall provide employer’s liability insurance in an amount not less than \$500,000 for each accident or disease for each employee.

Personal Property Insurance

Any tools, equipment, materials, and other personal property owned by Vendor shall be at the sole responsibility and risk of Vendor. The County of Barnstable, and “all other political subdivisions” shall not be liable for any loss, damage, or theft to such property. Any insurance that Vendor elects to maintain on Vendor’s personal property and materials shall be at the sole responsibility and cost of Vendor.

Pollution Legal Liability:

If applicable, the Contractor shall provide insurance coverage for bodily injury and property damage resulting from Contractor’s liability arising out of pollution related exposures such as asbestos abatement, lead paint abatement, tank removal, mold remediation, removal of contaminated soil, etc. The policy shall also include coverage for on-site and off-site bodily injury and loss of damage to or loss of use of property, directly or indirectly arising out of the discharge, dispersal, release or escape of irritants, contaminants or pollutants into or upon the land, the atmosphere or any water course or body of water, whether it be gradual, or sudden and accidental. The policy shall also include defense and clean-up costs. The policy shall provide a minimum limit of one million dollars (\$1,000,000) per occurrence for this project. If the policy is claims made, the retroactive date shall be no later than the commencement date of this contract and the policy shall include an extended reporting period of at least one year from substantial completion and acceptance of the work by the County of Barnstable or owner of the project.

Additional types of Insurance

The Vendor shall provide such other types of insurance as may be required by the County of Barnstable and indicated via addendum to this insurance requirement.

Proof of Insurance

No work shall be commenced on the site by the Vendor until copies of the policy or certificates of the types of insurance required hereby have been furnished to the Chief Procurement Officer, in a form satisfactory to her. If the Vendor provides a Certificate of Liability Insurance, it must indicate each policy number, insurance company, policy effective and expiration date, and limits of insurance. The certificate must make specific reference to the Contract number. It must also provide proof that the policy(ies) has been properly endorsed to add the County of Barnstable, and "all other political subdivisions" as an additional insured and to add a waiver of subrogation in favor of the County of Barnstable, and "all other political subdivisions," and to provide the County of Barnstable with at least thirty (30) days' notice of any cancellation, termination or material modification. The certificate must be signed by a duly authorized representative of the issuing insurance companies.

In addition, renewal certificates must be received by the County of Barnstable thirty (30) days prior to any policy expiration. Further, policies must not be allowed to expire or be canceled without thirty (30) days prior written notice to the Chief Procurement Officer, County of Barnstable.

Effect of Failure to Continue Insurance in Force

Failure to provide and continue in force insurance required by this contract shall be deemed a material breach of this contract and shall operate as an immediate termination thereof.

14. REQUIRED BID DOCUMENTS:

All bid submissions must include the following documents. Failure to include these documents could result in disqualification of your bid:

- Certificate of Non-Collusion & Tax Compliance – Attachment B – *Please use this sheet as the front page of your bid.*
- 3 References
- Fuel Oil Bid Sheet – Attachment C
- Bid Bond as outlined in specifications

ATTACHMENT B

Please use this sheet as the front page of your bid.

CERTIFICATE of NON-COLLUSION AND TAX COMPLIANCE

Pursuant to MGL Chapter 62C, Section 49A, I certify under the penalties of perjury that I, to the best of my knowledge and belief, have filed all state tax returns and paid all state taxes required under the law.

In accordance with MGL, Chapter 30B, Section 10, I certify under the penalties of perjury that this bid / proposal has been made and submitted in good faith and without collusion or fraud with any other person. As used in this certificate, the work "person" shall mean any natural person, business, partnership, corporation, union, committee, club or other legal organization, entity or group of individuals.

COMPANY _____

ADDRESS _____

Signature of Individual Signing Bid
or Corporate officer _____

Telephone Number _____

Social Security Number or
Federal Identification Number _____

Date _____

Any person or corporation who fails to execute this document will be
considered a non-responsive bidder
and will be rejected pursuant to MGL Chapter 30B.

**ATTACHMENT C
BARNSTABLE COUNTY
FUEL OIL BID SHEET FY 2019**

State agencies and political subdivisions are specifically exempt from state sales tax and exempt from all federal taxes. The prices quoted shall be exclusive of said taxes and the oil spill prevention fee.

#2 TANK WAGON DELIVERIES – BID AS A FIXED PRICE

Section	Gallons	20-day Section Discount	Fixed Price Bid
1. Brewster	2,100		
2. Courthouses & County Complex	1,100		
3. Dennis/Yarmouth School District	1,300		
4. Falmouth	8,569		
5. Fire Training Academy	2,158		
6. Harwich	4,450		
7. Hyannis Public Library	5,655		
8. LeHac House	940		
9. Nauset Regional School District	47,500		
10. Orleans	4,000		
11. Wellfleet	2800		

#2 TANK WAGON DELIVERIES – BID AS OEP

SECTION	Gallons	20-Day Section Discount	OEP Price Bid
12. Truro	11,100		

Authorized Signature: _____

Print Name: _____

Company: _____

Address: _____

Phone: _____ Fax: _____

AGREEMENT BETWEEN

Barnstable County
3225 Main Street
Barnstable, MA 02630

and

THIS AGREEMENT, made this _____ day of _____ 2018 by and between _____ (hereinafter referred to as Contractor), and Mary Pat Flynn, Ron Beaty and Leo Cakounes as they are the Commissioners of Barnstable County, but without any personal liability.

WITNESSETH, that the Contractor and County for the consideration hereinafter named agree as follows:

WHEREAS: Barnstable County issued an Invitation for Bids for Fuel Oil for Barnstable County and other Political subdivisions.

WHEREAS: The Invitation for Bids was bid in compliance with MA General Law Chapter 30B.

WHEREAS: The vendor is the responsive, responsible bidder offering the lowest price for the towns indicated on the spreadsheet.

NOW THEREFORE, the County and the Contractor do mutually agree as follows:

1. Employment of Contractor. The County hereby agrees to engage the Contractor to perform the services hereinafter set forth in the Scope of Services. Contractor shall not be considered an employee of Barnstable County. Contractor hereby agrees to hold the County harmless from any claims regarding worker's compensation benefits, unemployment compensation benefits, retirement benefits, or any other benefit normally attributable to the status of "employee" and Contractor specifically agrees to pay for all damages incurred by the County, including costs, benefits, and reasonable attorney fees in the event the Contractor files such claim.
2. Scope of Services. The Contractor shall perform the scope of services as set forth in Barnstable County's Invitation for Bids dated _____ and the Contractor's bid dated _____, incorporated herein by reference as Attachment A.
3. Time of Performance. Work in connection with the Agreement shall begin July 1, 2018 and continue until June 30, 2019.
4. Payment. The Towns shall compensate the Contractor for services provided under Scope of Services, (a maximum not-to-exceed fee of \$ _____. Travel and other expenses authorized shall be within the total contract limiting fee). Upon acceptance of the Contractor's invoice, payment will be made within thirty (30) days. If an invoice is not accepted by the County within fifteen (15) days, it shall be returned to the Contractor with a written explanation for the rejection. At the end of each County fiscal year Contractor must submit any outstanding invoices for services performed or delivered during the fiscal year (July 1-June 30) to the County no later than July 31st of the year when the resources were prepared.

5. Termination or Suspension of Contract for Cause. If through any sufficient cause, the Contractor or the Town shall fail to fulfill or perform its duties and obligations under this Contract, or if either party shall violate or breach any of the provisions of this Contract, either party shall thereupon have the right to terminate or suspend this Contract, by giving written notice to the other party of such termination or suspension and specifying the effective date thereof. Such notice shall be given at least fifteen (15) calendar days before such effective date.

6. Termination for Convenience of County/Town. The County/Town shall have the right to discontinue the work of the Contractor and cancel this contract by written notice to the Contractor of such termination and specifying the effective date of such termination. In the event of such termination or suspension of this Contract, the Contractor shall be entitled to just and equitable compensation for satisfactory work completed, for services performed and for reimbursable expenses necessarily incurred in the performance of this Contract up to and including the date of termination or suspension.

7. Changes. The County may, from time to time, require changes in the Scope of Contractor Services to be performed hereunder. Such changes, including any increase or decrease in the amount of the Contractor's compensation, which are mutually agreed upon by the County and the Contractor, shall be incorporated in written amendments to this Contract.

8. Non-Discrimination in Employment and Affirmative Action. The Contractor shall take affirmative action to ensure that qualified applicants and employees are treated without regard to age, race, color, religion, sex, marital status, sexual orientation, national origin, disability, or Vietnam Era Veteran status. The contractor agrees to comply with all applicable Federal and State statutes, rules and regulations prohibiting discrimination in employment including but not limited to: Title VII of the Civil Rights Act of 1964, as amended; Massachusetts General Laws Chapter 1518§(1); the Americans with Disabilities Act of 1990; and all relevant administrative orders and executive orders including Executive Order 246.

9. Subcontracting. None of the services to be provided by the Contractor pursuant to this Contract shall be subcontracted or delegated in whole or in part to any other organization, association, individual, corporation, partnership or other such entity without the prior written approval of the County. No subcontract or delegation shall relieve or discharge the Contractor from any obligation or liability under this Contract except as specifically set forth in the instrument of approval. If this Contract is funded in whole or in part with federal funds, Contractor further agrees to comply with the provisions of the Office of Management and Budget Circular A-110, as amended, with respect to taking affirmative steps to utilize the services of small and minority firms, women's business enterprises and labor surplus area firms. All subcontracts shall be in writing and shall contain provisions which are functionally identical to, and consistent with, the provisions of this Contract. The County shall have the right to obtain a copy of the subcontract upon request.

10. Interest of Members of County and Others. No officer, member or employee of the County, and no member of its governing body of the locality or localities in which the Project is situated or being carried out who exercises any functions or responsibility in the review or approval of the undertaking or carrying out of the Project, shall participate in any decision relating to this Contract which affects his personal interest or the interest of any corporation, partnership, or association in which he is directly or indirectly financially interested or has any personal or pecuniary interest, direct or indirect, in this Contract or the proceeds thereof.

11. Interest of Contractor. The Contractor covenants that it presently has no interest and shall not acquire any interest directly or indirectly which would conflict in any manner or degree with the performance of its services hereunder.

12. Assignability. The Contractor shall not assign any interest in this Contract and shall not transfer any interest in the same (whether by assignment or novation), without the prior written consent of the County thereto; provided, however that claims for money due or to become due the Contractor from the County under this Contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the County.

13. Recordkeeping, Audit, and Inspection of Records. The Contractor shall maintain books, records, and other compilations of data pertaining to the requirements of the Contract to the extent and in such detail as shall properly substantiate claims for payment under the Contract. All such records shall be kept for a period of seven (7) years or for such longer period as is specified herein. All retention periods start on the

first day after final payment under this Contract. If any litigation, claim, negotiation, audit or other action involving the records is commenced prior to the expiration of the applicable retention period, all records shall be retained until completion of the action and resolution of all issues resulting therefrom, or until the end of the applicable retention period, whichever is later. If this contract is funded in whole or in part with state or federal funds, the state or federal grantor agency, the County or any of its duly authorized representatives or designees, shall have the right at reasonable times and upon reasonable notice, to examine and copy, at reasonable expense, the books, records and other compilations of data of the Contractor which pertain to the provisions and requirements of this Contract. Such access shall include on-site audits, review and copying of records.

14. Findings Confidential. Any reports, information, data, etc., given to or prepared or assembled by the Contractor under this Contract which the County requests to be kept as confidential shall not be made available to any individual or organization by the Contractor without the prior written approval of the County.

15. Publication, Reproduction and Use of Material. No material produced in whole or in part under this Contract shall be subject to copyright in the United States or in any other country. The County shall have the unrestricted authority to publish, disclose, distribute, and otherwise use, in whole or in part, any reports, data or other materials prepared under this Contract.

16. Political Activity Prohibited. None of the services to be provided by the Contractor shall be used for any partisan political activity or to further the election or defeat of any candidate for public office.

17. Anti-Boycott Warranty. During the term of this Contract, neither the Contractor nor any "affiliated company" as hereafter defined, shall participate in or cooperate with an international boycott, as defined in Section 999 (b) (3) and (4) of the Internal Revenue Code of 1954, as amended by the Tax Reform Act of 1986, or engage in conduct declared to be unlawful by Sections 2 and 3 of Chapter 151E, Massachusetts General Laws. As used herein, an "affiliated company" shall be any business entity of which at least 51% of the ownership interested is directly or indirectly owned by the Contractor or by a person or persons or business entity or entities which directly or indirectly own at least 51% of the ownership interests of the Contractor.

18. Choice of Law. This Contract shall be construed under and governed by the laws of the Commonwealth of Massachusetts. The Contractor and the agents thereof, agree to bring any federal or state legal proceedings arising under this Contract, in which the County is a party, in a court of competent jurisdiction within the Commonwealth of Massachusetts. This paragraph shall not be construed to limit any rights a party may have to intervene in any action, wherever pending, in which the other is a party. All parties to this contract and covenant agree that any disputes be litigated in the District or Superior courts in Barnstable County.

19. Force Majeure. Neither party shall be liable to the other nor be deemed to be in breach of this Contract for failure or delay in rendering performance arising out of causes factually beyond its control and without its fault or negligence. Such causes may include, but are not limited to: acts of God or the public enemy, wars, fires, floods, epidemics, strikes, or unusually severe weather. Dates or times of performance shall be extended to the extent of delays excused by this section, provided that the party whose performance is affected notifies the other promptly of the existence and nature of such delay.

20. Compliance with Laws. The Contractor shall promptly comply with all applicable laws, rules, regulations, ordinances, orders and requirements of the Commonwealth and any state or federal governmental authority relating to the delivery of the services described in this Contract subject to section 18 above. Unless otherwise provided by law, the Contractor shall promptly pay all fines, penalties and damages that may arise out of or are imposed because of the Contractor's failure to comply with the provisions of this section and, shall indemnify the County against any liability incurred as a result of a violation of this section. If the Contractor receives federal funds pursuant to this Contract, Contractor understands and agrees to comply with all federal requirements including but not limited to audit requirements. Not-for-Profit entities that receive federal funds from the County must comply with the audit requirements outlined in the Office of Management and Budget OMB Circular A-133.

21. Headings, Interpretation and Severability. The headings used herein are for reference and convenience only and shall not be a factor in the interpretation of the Contract. If any provision of this

Contract is declared or found to be illegal, unenforceable, or void, then both parties shall be relieved of all obligations under that provision. The remainder of the Contract shall be enforced to the fullest extent permitted by law.

22. Waiver of Liability. The Contractor and the county hereby covenant and agree to waive any and all claims against Barnstable County and release Barnstable County from any liability arising out of the Scope of Services described in the attached "Exhibit A".

IN WITNESS WHEREOF, the County and Contractor have executed this Agreement this _____ day of in the year two thousand and fourteen.

FOR THE COUNTY:

BARNSTABLE COUNTY COMMISSIONERS:

Leo Cakounes

Mary Pat Flynn

Ron Beaty

Date

FOR THE CONTRACTOR:

Date
